



PLYMSTOCK SCHOOL

Managing Allegations of Abuse Against Staff Policy

Governors' Personnel
Lead Officer: Mr D Farmer
Date for Review: Summer 2017

The procedures outlined in this policy should be followed alongside the school's Complaints Procedure, Child Protection / Safeguarding Policy, Behaviour Policy, Use of Force Policy and the Staff Disciplinary Procedure as well as any other relevant school policy or procedure.

Introduction

It is essential that any allegation of abuse made against a member of staff, a governor or volunteer at Plymstock School is dealt with quickly, and in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

All staff, governors and volunteers should know how to recognise and report concerns or allegations and should understand what to do if they receive an expression of concern or allegation against another member of staff or they themselves have concerns about the behaviour of another member of staff.

All allegations and concerns must be reported straight away to the Senior Child Protection Officer who will discuss with the Headteacher and the Local Authority Designated Officer (LADO).

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We adopt the Government guidance, 'Safeguarding Children and Safer Recruitment' (2007) and 'Keeping Children Safe in Education' (2014) which together set out the framework for managing cases of allegations of abuse against people who work with children.

This policy reflects the Children Act 1989/2004 and is compliant with Section 157 of the Education Act (2002).

This policy will be enforced in cases of **allegations** that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity.

This policy will be used in respect of all cases in which **it is alleged** that a teacher or member of staff (including a volunteer) has:

- Behaved in a way that has harmed a child, or may have harmed a child
- Possibly committed a criminal offence against or related to a child; or,
- Behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

These behaviours should be considered within the context of four categories of abuse (i.e. physical, sexual and emotional abuse and neglect). These include concerns relating to inappropriate relationships between members of staff or students; for example:

- **Having a sexual relationship with a child if in a position of trust in respect of that child, even if consensual** (see ss16-19 Sexual Offences Act 2003);
- 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence (see s15 Sexual Offences Act 2003);
- Other 'grooming' behaviour rising to concerns of a broader safeguarding nature (e.g. inappropriate text/email messages or images, gifts, socialising etc.);
- Possession of indecent photographs/pseudo-photographs/moving pictures of children.

If an allegation or concern arises about a member of staff, outside of their work with children, and this may present a risk of harm to children for whom the member of staff is responsible, the general principles outlined in these procedures still apply.

In some cases, an allegation of abuse against someone closely associated with a member of staff (e.g. partner, member of the family or other household member) may present a risk of harm to children for whom the member of staff is responsible. In these circumstances, a strategy meeting/discussion should be convened to consider:

- The ability and/or willingness of the member of staff to adequately protect the children;
- Whether measures need to be put in place to ensure their protection;
- Whether the role of the member of staff is compromised.

How allegations will be managed

If you have a concern about any adult who works with children this must be immediately reported to the Senior Child Protection Officer and Headteacher.

This concern will be passed on to the LADO for Plymouth.

You are reminded not to:

- Investigate or ask leading questions;
- Make assumptions or offer alternative explanations for action;
- Promise confidentiality to the victim – but do offer assurance that information will only be shared on a need to know basis.

If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, they should report the matter to the LADO directly.

There may be up to three strands within the consideration of any concern or allegation:

- A police investigation of a possible criminal offence;
- Enquiries and assessment by children's social care about whether a child is in need of protection or in need of services;
- Consideration by the school of disciplinary action in respect of the individual.

It is important that expressions of concern that do not necessarily amount to “allegations” are reported and addressed, particularly if there are repeated reports of such concerns and/or questionable conduct. It may be the concern you express has been raised by another colleague. If there are repeated reports of such concerns and/or questionable conduct, a pattern of unacceptable behaviour may be identified.

Supporting those involved

Our procedures will be managed with common sense and sound judgement. Many cases may not meet the above criteria, and indeed may not require either a police investigation or further enquiries by the local authority children's services. In such situations, we will resolve the matter as quickly as possible. Where more appropriate, we may use our school's complaints procedure instead.

As employers, we have a duty of care to our employees. We provide effective support for anyone facing an allegation and provide our staff member with a named contact if they are suspended. Social contact with colleagues and friends will not be prevented unless there is evidence to suggest that it is likely to be prejudicial to the gathering and presentation of evidence.

In the case of supply, contract and volunteer workers, normal disciplinary procedures may not apply. In these circumstances, the LADO and employer should act jointly with the providing agency, if any, in deciding whether to continue to use the person's services, or provide future work with children, and if not, whether to make a report for consideration of barring or other action.

Rarely, some allegations may be so serious that we may need to ask for immediate intervention by children's social care and/police. If this is the case, and we believe the above criteria are likely to be met, the Headteacher will inform the LADO of such allegations immediately and keep the Chair of Governors informed.

Suspension is never a default option: we will consider all other options before suspending a member of staff. We would only suspend someone if there were no reasonable alternative. In such cases, reasons and justification would be recorded, and the suspended notified of the reasons.

Parent/carer(s) of a child or children involved will be told about the allegation if appropriate as soon as possible, if they do not already know of it. They will also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution. **However, where a strategy discussion is required, or police or children's social care services need to be involved, this should not take place unless or until those agencies have been consulted and have agreed what information can be disclosed to the parent/carer(s).** That includes the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information

taken into account in reaching a decision, cannot normally be disclosed, but the parent/carer(s) of the child will be told the outcome.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care, or the police, as appropriate, will be consulted by the Headteacher to consider what support the child or children involved may need.

The Headteacher will also keep the person who is the subject of the allegations informed of the progress of the case and consider what other support is appropriate for them.

If the person is a member of a union or professional association s/he will be advised to contact that body for support at the outset.

Every effort will be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered, and to fulfil our obligations under the Data Protection Act 1998.

Where a member of staff tenders his or her resignation, or ceases to provide their services, this action will not prevent an allegation being followed up in accordance with these procedures.

Every effort will be made to reach a conclusion in all cases of allegations, bearing in mind the safety or welfare of children, including where the person concerned refuses to cooperate with the process.

Wherever possible the person will be given a full opportunity to answer the allegation and make representations about it. The process of investigating the allegation, and reaching a judgment about whether it is substantiated will continue, even if the person does not cooperate.

Similarly, so called 'settlement agreements' by which a person agrees to resign, the school agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, will not be used in these cases. In any event, such an agreement would not prevent a thorough police investigation where that is appropriate. Furthermore, it will not override the statutory duty to make a referral to the Disclosure and Barring Service (DBS) where circumstances require.

Record keeping

The Safeguarding Lead is responsible for compiling a clear and comprehensive account of an allegation or concern (including details of contacts with the LADO), details of how it was followed up and resolved, the decisions reached and the action taken. A note of any action taken and decisions reached will also be kept on a person's confidential personnel file, and a copy provided to the person concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has left. Even allegations or concerns that appear less serious must be followed up and taken seriously, before being considered by the LADO. Again a copy of the record must be given to the person concerned.

A central record of all allegations or concerns must be securely held by the Senior Child Protection Officer who is responsible for passing this record on to

their successor. He or she, in liaison with the Headteacher, must also pass allegations or concerns about an individual student on to their next school, if appropriate.

The **only** exception is for allegations that are found to have been malicious. These will be removed from personnel records.

The record may provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation that did not result in a criminal conviction. Also, it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record will be retained at least until the member of staff involved has reached normal retirement age, or for a period of 10 years from the date of the allegation if that is longer.

An allegation which was proven to be false, unsubstantiated, unfounded or malicious will not be included in employer references.

Every effort will be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the child, parents and the person about whom the allegation has been made (in cases when this would not place the child at further risk) up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, manager related disciplinary or suitable processes.

Section 13 of the Education Act 2011 introduces new restrictions implemented in September 2012 on the publication of any information that would identify a teacher who is the subject of an allegation of misconduct that would constitute a criminal offence, where the alleged victim of the offence is a registered student at the school.

Such restrictions remain in place unless or until the teacher is charged with a criminal offence, though they may be dispensed with on the application to the Magistrates' Court by any person, if the court is satisfied that it is in the interests of justice to do so, having regard to the welfare of:

- a) The person who is the subject of the allegation, and
- b) The victim of the offence to which the allegation relates.

There is a right to appeal to the Crown Court.

This restriction applies to allegations made against any teacher who works at a school, including supply and peripatetic teachers.

There is a new offence of publishing any information in breach of these restrictions. Publication includes any communication, in whatever form, which is addressed to the public at large or any section of the public.

Timescales

It is in everyone's interest to resolve cases as quickly as possible, through a fair and thorough investigation. All allegations must be investigated as a priority, to avoid delay.

The majority of investigations should be completed and resolved within three weeks of the allegation or concern being raised.

Where formal disciplinary action is not required, Plymstock School will institute appropriate action within three working days. Where it is proving difficult to do so in exceptional circumstances for extraneous reasons such as the nature, seriousness and complexity of the allegation, everyone should be kept informed of the expected timeframe.

If a disciplinary hearing is required, and can be held without investigation, the hearing will be held within 15 working days.

However, where it is clear immediately that the allegation or concern is unfounded or malicious, the investigation will be resolved within one week.

Initial considerations

The Headteacher will inform the staff member about the allegation as soon as possible after he has been informed by the LADO who must be told of all allegations or concerns that come to the attention of the Senior Child Protection Officer.

The LADO will discuss and consider the nature, content, and context of the allegation or concern. Any initial consideration in which information is shared and evaluation sought may result in no further action being taken. However, this decision, and the reason for it, will always be fully recorded by the Senior Child Protection Officer and LADO, and agreement reached on what information must be put in writing to the individual concerned, and by whom. They will also consider, together with the Headteacher, what action should follow for the individual and for the person/s who made the allegation.

For legal reasons, the school cannot rule out the need to make third parties aware of certain issues, as well as possibly the identity of those involved. This would only be likely to happen when, for example, a student's safety was at risk or it became necessary to refer matters to the police.

If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion will be convened with appropriate agencies, such as the police and children's social care, in accordance with "Working Together to Safeguard Children".

Where a strategy discussion is needed, or police or children's social care may need to be involved, full information will not be provided until those agencies have been consulted, and have agreed what information can be disclosed to the person. However, if the person is a member of a union or professional association they will be advised to contact that organisation at the outset.

In cases where a formal strategy discussion is not considered appropriate because the threshold of 'significant harm' is not reached, but a police investigation might be needed, the police and any other agencies involved with the child will be consulted to evaluate the allegation and decide how it should be dealt with.

If the allegation or concern is about physical contact, it will be taken into account that

teachers and other school staff are entitled to use reasonable force to control or restrain students in certain circumstances, including dealing with disruptive behaviour.

If the allegation or concern is such that it is clear that an investigation by police and/or enquiries by children's social care are not necessary, or the initial evaluation decides that is the case, the Senior Child Protection Officer, Headteacher and LADO shall decide as to the appropriate next steps.

In these circumstances the options open to the school depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action to summary dismissal, or a decision not to use the person's services in future.

In some cases, further enquiries will be needed to enable a decision about how to proceed; this will be determined by the Headteacher and LADO.

The following definitions should be used in determining the outcome of an investigation:

- **Substantiated**, i.e. there is evidence to prove the allegation
- **False**, i.e. there is sufficient evidence to disprove the allegation
- **Malicious**, i.e. there is clear evidence to prove there has been a deliberate act to deceive, and the allegation is entirely false
- **Unfounded**, i.e. no evidence or proper basis to support the allegation. Typically the person who made the allegation may not have been in full knowledge of the facts or circumstances, misinterpreted the incident, or have been mistaken about what they saw.
- **Unsubstantiated**, i.e. there is insufficient evidence to prove or disprove the allegation. In these circumstances no guilt or innocence is implied.

Suspension

Suspension will be considered in any case where there is cause to suspect a child is at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. **However, a person will not be suspended automatically, or without careful consideration of the circumstances.** Advice will always be sought from the LADO.

The power to suspend is vested in the Headteacher and the Chair of Governors. However, they will first consult the police and LADO about whether the member of staff about whom the allegation has been made needs to be suspended from contact with children.

Consideration will always be given as to whether the same result can be considered by alternative arrangements, based on assessment of risk; for example, redeployment, supervision, removing access to children. This can allow time for a more informed decision to be made.

The potential for permanent professional reputational damage, which can result from suspension, will always be considered.

Where suspension is used, a clear record of the decision and justification or rationale is always taken.

Action on conclusion of a case

If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the Headteacher will discuss with the LADO and Chair of Governors whether a referral should be made to the DBS/Independent Safeguarding Authority (so that it may consider including the person on the DBS barred from working with children list) and other regulatory bodies.

There will always be a discussion between the LADO and the Headteacher to consider this matter fully.

In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the School will consider how best to facilitate this. It appreciates that most people would benefit from some help and support when returning to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The school will also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school.

Reporting restrictions introduced under Education Act 2011 (effective 1 October 2012) prevent the publication of any material that may lead to the identification of a teacher who has been falsely accused by, or on behalf of, a student from the same school. These restrictions cease to apply in cases where the individual waives his/her rights to anonymity by going public or giving written consent for another person to do so, or if a judge lifts the restriction.

There is a legal requirement for the school to make a referral, within one month of the end of employment, to the Disclosure and Barring Service in circumstances when it believes that a person has engaged in misconduct, including inappropriate sexual conduct, that harmed or is likely to have harmed a child; or if a person otherwise poses a risk of harm to a child. This duty applies when a person has been removed from relevant work with children, or the person has chosen to cease relevant work, or when they would have been removed had they not chosen to do so. This step would lead to consideration of whether to bar the person from working in regulated activity.

Action in respect of false allegations

If an allegation is determined to be false, the Headteacher may refer the matter to children's social care to determine whether the child concerned is in need of services, or may have been abused by someone else.

In the event that an allegation is shown to have been deliberately invented or malicious, the Headteacher will consider whether any disciplinary action is appropriate against the student who made it. This may include permanent exclusion from the School.